



DECISION OF COMMISSION

In the Matter of

Wayne A. Otey, Claimant
[REDACTED]

Camac Corporation
Bristol, Virginia 24201

Date of Appeal

To Commission: January 4, 1985

Date of Review: February 14, 1985

Place: RICHMOND, VIRGINIA

Decision No.: 24598-C

Date of Decision: February 14, 1985

Date of Mailing: February 18, 1985

Final Date to File Appeal

with Circuit Court: March 10, 1985

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This is a matter before the Commission on appeal by the claimant from the Decision of Appeals Examiner (No. UI-84-8653), mailed December 19, 1984.

ISSUE

Did the claimant leave work voluntarily without good cause as provided in Section 60.1-58 (a) of the Code of Virginia (1950), as amended?

FINDINGS OF FACT

The claimant was last employed as a machine operator by Camac Corporation of Bristol, Virginia from March 30, 1981 until October 29, 1984.

Sometime prior to his separation from employment, the claimant suffered severe headaches. Such headaches caused him to miss several consecutive work days in September, 1984. When he returned to work with a doctor's excuse, his foreman instructed him to meet him in front of the plant. At that point, the claimant assumed that he would be fired, and proceeded to the front of the building. After waiting for approximately fifteen minutes, he left the premises and

went home. Later the same day, he was instructed to meet with plant management.

During his meeting with the plant supervisors, the claimant was given an option between submitting to treatment at a mental health facility and being discharged from his employment. While he did not agree that treatment was necessary, the claimant did submit to hospitalization in the psychiatric ward of a local hospital on September 27, 1984. Upon his release from the hospital on or about October 11, 1984, the claimant returned to his job. However, over the next two weeks, his co-workers teased him repeatedly about being a patient in a mental ward and further stated that he scared them and they didn't know whether they should trust him or work with him. One of these employees was the wife of the plant superintendent. Although the claimant did complain to the plant superintendent, and expressed his disappointment that the matter had not been kept confidential, the employer took no action to alleviate the situation. As a result, the claimant left his employment.

OPINION

Section 60.1-58 (a) of the Virginia Unemployment Compensation Act provides a disqualification if it is found that an individual voluntarily left his employment without good cause.

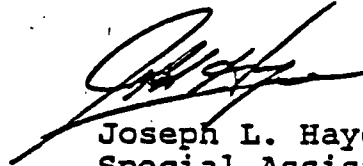
In construing the term "good cause", the Commission has consistently held that an individual must show that his reasons for leaving his job were so necessitous and compelling that he had no reasonable alternative but to quit and further, that he made every effort that a reasonable person would make in order to protect his job before leaving it. (See, George C. Painter v. Fauquier Home Mut. Fire Ins. Company, Decision No. 3069-C, dated January 29, 1957 and Rita Marcus v. Camelot Development Corp., Decision No. 6183-C, dated January 31, 1974) In this regard, it is recognized that when an individual is the object of undue harassment or abuse which is not resolved despite his rational efforts made in good faith, his separation from employment may be for good cause. Elly M. Meadows v. E.G.A., Inc., Decision No. 8091-C, dated July 19, 1976.

In this case, there is no dispute as to the voluntary leaving. However, the uncontradicted evidence indicates that despite his efforts to cooperate with his employer, this claimant was required to endure the taunting and ridicule of his fellow employees. The claimant's testimony concerning the constant and continuing harassment about his psychiatric treatment and his co-workers expressions of apprehension is un rebutted. Further, it is clear that he did make a reasonable good faith attempt to settle the matter before he decided to quit. Once he had taken the matter to the plant superintendent, the claimant had exhausted the most logical means of

escape from this personal abuse. Given the circumstances in this particular case, and in the absence of evidence to the contrary, the Commission is of the opinion that to expect this claimant to continue to suffer such humiliation for an indefinite period would not have been a reasonable alternative. See, Meadows, supra. Accordingly, the Commission concludes that this claimant left his last employer voluntarily but for good cause within the meaning of that term as used in the Act. (Underscoring supplied)

DECISION

The Decision of Appeals Examiner is hereby reversed. It is held the claimant is qualified for benefits effective November 4, 1984 inasmuch as he left work voluntarily with good cause.



Joseph L. Hayes
Special Assistant
Commission Appeals